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10 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 ABDUL-KAHLIF CALHOUN,

12 Petitioner,

13 v.

14 STATE OF WASHINGTON,

15 Respondent.
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Case No. C09-5211RJB

ORDER

18 This matter is before the court on Petitioner's motions to stay the matter (Dkt. # 3 and 8).
19 Petitioner asks the court to stay these proceedings. Plaintiff appears to be asking for a stay until
20 this court appoints counsel, or he has access to a library. Plaintiff is currently at the Pierce
21 County Jail for resentencing.

22 Having reviewed the record, the court finds and orders as follows.

23 1. District courts may use a "stay-and-abeyance" procedure in which the court dismisses
24 the unexhausted claims while staying the remaining exhausted claims. Rhines v. Weber, 544
25 U.S. 269, 275-77; Calderon v. United States District Court (Taylor), 134 F.3d 981, 988 (9th
26 Cir.1998). Once the petitioner has exhausted the previously-unexhausted claims in state court,
the court may allow the petitioner to amend the original federal petition by adding the newly-

ORDER - 1

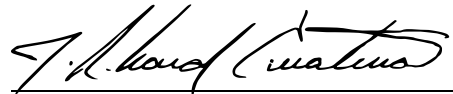
1 exhausted claims, which "relate back" to the original petition, pursuant to Fed. R. Civ. P. 15(c).
2 Kelly v. Small, 315 F.3d 1063, 1070 (9th Cir.2003). This procedure assumes special importance
3 in light of AEDPA's one-year statute of limitations, and it advances our policy of deciding cases
4 on the merits, rather than on procedural grounds. James v. Pliler, 269 F.3d 1124, 1126 (9th Cir.
5 2001).

6 2. Plaintiff has not shown good cause warranting use of the "stay and abeyance"
7 procedure in this matter. Following the guidelines noted above, the court DENIES petitioner's
8 motions to stay these proceedings, (Dkt. # 3 and 8).

9 3. Plaintiff's amended petition is due on or before June 26, 2009.

10 4. The Clerk shall direct copies of this Order to petitioner.

11 DATED this 3rd day of June, 2009.

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14 J. Richard Creatura
15 United States Magistrate Judge
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